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FILED

Date 5/8/14 By 

8 **BEFORE THE**
9 **STRUCTURAL PEST CONTROL BOARD**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2014-58

13 **REAL ESTATE TERMITE; ULYSSES**
14 **TERRONES and SAVIER TERRONES,**
15 **PARTNERS**
16 **2537 W. Beverly Blvd., Suite 203**
17 **Montebello, CA 90640**
18 **Company Registration Certificate No. PR**
19 **6359**

ACCUSATION

20 **ANGELO TERRONES**
21 **2537 W. Beverly Blvd., Suite 204**
22 **Montebello, CA 90640**
23 **Operator's License No. OPR 12060**
24 **Field Representative License No. FR39379**

25 **ROMEO V. TERRONES**
26 **2537 W. Beverly Blvd., Suite 203**
27 **Montebello, CA 90640**
28 **Field Representative License No. FR 45244**

and

FIDEL ESPINOZA
2537 W. Beverly Blvd., Suite 202
Montebello, CA 90640
Operator's License No. OPR 12439

Respondents.

1 Complainant alleges:

2 PARTIES

3 1. Susan Saylor (Complainant) brings this Accusation solely in her official capacity as the
4 Registrar/Executive Officer of the Structural Pest Control Board, Department of Consumer
5 Affairs.

6 2. On or about August 16, 2011, the Structural Pest Control Board issued Company
7 Registration Certificate Number PR 6359 to Real Estate Termite; Ulysses Terrones and Xavier
8 Terrones, Partners (Respondent Real Estate Termite). The Company Registration Certificate was
9 in full force and effect at all times relevant to the charges brought herein.

10 3. On or about July 9, 2010, the Structural Pest Control Board issued Operator's
11 License Number OPR 12060 to Angelo Terrones (Respondent Angelo Terrones). The Operator's
12 License was in full force and effect at all times relevant to the charges brought herein and will
13 expire on June 30, 2016, unless renewed.

14 4. On or about November 18, 2005, the Structural Pest Control Board issued Field
15 Representative License Number FR 39379 to Respondent Angelo Terrones. The Field
16 Representative License was in full force and effect at all time relevant to the charges brought
17 herein and will expire on June 30, 2014, unless renewed.

18 5. On or about February 26, 2010, the Structural Pest Control Board issued Field
19 Representative License Number FR 45244 to Romeo V. Terrones (Respondent Romeo Terrones).
20 The Field Representative License was in full force and effect at all times relevant to the charges
21 brought herein and will expire on June 30, 2015, unless renewed.

22 6. On or about November 2, 2012, the Structural Pest Control Board issued Operator's
23 License Number OPR 12439 to Fidel Espinoza (Respondent Espinoza). The Operator's License
24 was in full force and effect at all times relevant to the charges brought herein and will expire on
25 June 30, 2015, unless renewed.

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1 company and shall be available to supervise and assist all employees of the company, in accordance
2 with regulations which the board may establish.

3 9. Section 8620 of the Business and Professions Code (Code) provides, in pertinent part,
4 that the Board may suspend or revoke a license when it finds that the holder, while a licensee or
5 applicant, has committed any acts or omissions constituting cause for disciplinary action or in lieu
6 of a suspension may assess a civil penalty.

7 10. Section 8625 of the Code states:

8 "The lapsing or suspension of a license or company registration by operation of law or by
9 order or decision of the board or a court of law, or the voluntary surrender of a license or
10 company registration shall not deprive the board of jurisdiction to proceed with any investigation
11 of or action or disciplinary proceeding against such licensee or company, or to render a decision
12 suspending or revoking such license or registration."

13 11. Section 8516 of the Code states:

14 (a) This section, and Section 8519, apply only to wood destroying pests or organisms.

15 (b) No registered company or licensee shall commence work on a contract, or sign, issue, or
16 deliver any documents expressing an opinion or statement relating to the absence or presence of
17 wood destroying pests or organisms until an inspection has been made by a licensed Branch 3 field
18 representative or operator. The address of each property inspected or upon which work is
19 completed shall be reported on a form prescribed by the board and shall be filed with the board no
20 later than 10 business days after the commencement of an inspection or upon completed work.

21 Every property inspected pursuant to this subdivision or Section 8518 shall be assessed a
22 filing fee pursuant to Section 8674.

23 Failure of a registered company to report and file with the board the address of any property
24 inspected or work completed pursuant to Section 8518 or this section is grounds for disciplinary
25 action and shall subject the registered company to a fine of not more than two thousand five
26 hundred dollars (\$2,500).

27 A written inspection report conforming to this section and a form approved by the board
28 shall be prepared and delivered to the person requesting the inspection or to the person's

1 designated agent within 10 business days of the inspection, except that an inspection report
2 prepared for use by an attorney for litigation purposes is not required to be reported to the board.
3 The report shall be delivered before work is commenced on any property. The registered company
4 shall retain for three years all original inspection reports, field notes, and activity forms.

5 12. Section 8518 of the Code states:

6 When a registered company completes work under a contract, it shall prepare, on a form
7 prescribed by the board, a notice of work completed and not completed, and shall furnish that
8 notice to the owner of the property or the owner's agent within 10 working days after completing
9 the work. The notice shall include a statement of the cost of the completed work and estimated
10 cost of work not completed.

11 The address of each property inspected or upon which work was completed shall be
12 reported on a form prescribed by the board and shall be filed with the board no later than 10
13 working days after completed work.

14 Every property upon which work is completed shall be assessed a filing fee pursuant to
15 Section 8674.

16 Failure of a registered company to report and file with the board the address of any property
17 upon which work was completed pursuant to subdivision (b) of Section 8516 or Section 8518 is
18 grounds for disciplinary action and shall subject the registered company to a fine of not more than
19 two thousand five hundred dollars (\$2,500).

20 The registered company shall retain for three years all original notices of work completed,
21 work not completed, and activity forms.

22 Notices of work completed and not completed shall be made available for inspection and
23 reproduction to the executive officer of the board or his or her duly authorized representative
24 during business hours. Original notices of work completed or not completed or copies thereof shall
25 be submitted to the board upon request within two business days.

1 13. Section 8550 of the Code states:

2 "(a) It is unlawful for any individual to engage or offer to engage in the business or practice
3 of structural pest control, as defined in Section 8505, unless he or she is licensed under this
4 chapter.

5 "(b) Notwithstanding subdivision (a), an unlicensed individual may solicit pest control work
6 on behalf of a structural pest control company only if the company is registered pursuant to this
7 chapter, and the unlicensed individual does not perform or offer to perform any act for which an
8 operator, field representative, or applicator license is required pursuant to this chapter. As used in
9 this subdivision, to "solicit pest control work" means to introduce consumers to a registered
10 company and the services it provides, to distribute advertising literature, and to set appointments
11 on behalf of a licensed operator or field representative.

12 "(c) It is unlawful for an unlicensed individual, soliciting pest control work on behalf of a
13 registered structural pest control company pursuant to subdivision (b), to perform or offer to
14 perform any act for which an operator, field representative, or applicator license is required,
15 including, but not limited to, performing or offering pest control evaluations or inspections, pest
16 identification, making any claims of pest control safety or pest control efficacy, or to offer price
17 quotes other than what is provided and printed on the company advertising or literature, or both.

18 "(d) It is also unlawful for any unlicensed individual to offer any opinion, or to make any
19 recommendations, concerning the need for structural pest control work in general, or in
20 connection with a particular structure.

21 "(e) It is unlawful for any firm, sole proprietorship, partnership, corporation, association, or
22 other organization or combination thereof to engage or offer to engage in the practice of structural
23 pest control, unless registered in accordance with Article 6 (commencing with Section 8610)."

24 14. Section 8624 states:

25 If the board suspends or revokes an operator's license and one or more branch offices are
26 registered under the name of the operator, the suspension or revocation may be applied to each
27 branch office.
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1 If the operator is the qualifying manager, a partner, responsible officer, or owner of a
2 registered structural pest control company, the suspension or revocation may be applied to the
3 company registration.

4 The performance by any partnership, corporation, firm, association, or registered company
5 of any act or omission constituting a cause for disciplinary action, likewise constitutes a cause for
6 disciplinary action against any licensee who, at the time the act or omission occurred, was the
7 qualifying manager, a partner, responsible officer, or owner of the partnership, corporation, firm,
8 association, or registered company whether or not he or she had knowledge of, or participated in,
9 the prohibited act or omission.

10 15. Section 8571 states:

11 If the licensed operator who is designated as the qualifying manager for a registered
12 company ceases for any reason whatsoever to be connected with the company, the company shall
13 notify the registrar in writing within 10 days from such cessation. If the notice is given the
14 registration shall remain in force for a reasonable length of time, to be determined by rules of the
15 board, during which period the company must submit to the registrar in writing the name of
16 another qualified, or to be qualified, qualifying manager to replace the qualifying manager who has
17 ceased to be connected with it, and who shall qualify as such within the time allowed by rules and
18 regulations of the board.

19 If the company fails to notify the registrar within the 10-day period, or fails to replace with a
20 qualifying manager within the period fixed by the regulations of the board, at the end of the period
21 the registration shall be ipso facto suspended. The registration shall be reinstated upon the filing of
22 an affidavit, executed by a representative of the company, and filed with the registrar, to the effect
23 that the qualifying manager who ceased to be connected with the company has been replaced by
24 another operator who is authorized by this chapter to act in such capacity, and that such operator
25 has not had his or her license suspended or revoked or that he or she has not been connected with
26 a company which has had its registration suspended or revoked.

16. Section 8641 of the Code states:

"Failure to comply with the provisions of this chapter, or any rule or regulation adopted by the board, or the furnishing of a report of inspection without the making of a bona fide inspection of the premises for wood-destroying pests or organisms, or furnishing a notice of work completed prior to the completion of the work specified in the contract, is a ground for disciplinary action."

17. Section 8642 of the Code states that "[t]he commission of any grossly negligent or fraudulent act by the licensee as a pest control operator, field representative, or applicator or by a registered company is a ground for disciplinary action."

REGULATORY PROVISIONS

18. California Code of Regulations, title 16, section 1918 states:

"Supervise" as used in Business and Professions Code Sections 8506.2, 8610 and 8611 means the oversight, direction, control, and inspection of the daily business of the company and its employees, and the availability to observe, assist, and instruct company employees, as needed to secure full compliance with all laws and regulations governing structural pest control.

In cases of ownership of more than one registered company by the same sole owner, corporation or partnership where the qualifying manager or managers cannot supervise each registered company because of the location of the companies, the qualifying manager or managers may designate an individual or individuals licensed as an operator or as a field representative in the branch or branches of business being conducted to supervise the company. This designated supervisor or supervisors must be under the direct supervision of the qualifying manager or managers. Any such designation of supervisors does not relieve the qualifying manager or managers of responsibility to supervise as required in sections 8506.2 and 8610.

19. California Code of Regulations, title 16, section 1996.3 states:

(a) The address of each property inspected and/or upon which work was completed shall be reported on a form prescribed by the Board and designated as the WDO Inspection and Completion Activity Report Form (see Form No. 43M-52 Rev. 5/09) at the end of this section. This form shall be prepared by each registered company and shall comply with all of the requirements pursuant to Section 8516(b), and 8518.

1 (b) The form shall contain the following information for each property inspected and/or upon
2 which work was completed.

3 (1) Company Name

4 (2) Company registration number

5 (3) Branch office registration number (when a branch office issues an inspection report or
6 notice of work completed

7 (4) Date of Activity

8 (5) Address of property inspected or upon which work was completed, including zip code

9 (6) Activity Code

10 (7) License number of licensee performing the inspection

11 (c) Failure of a registered company to report and file with the Board the address of any
12 property inspected or upon which work was completed pursuant to Section 8516(b) or 8518 are
13 grounds for disciplinary action and subject to a fine of not more than two thousand five hundred
14 dollars (\$ 2,500).

15 20. Section 118, subdivision (b), of the Code provides that the
16 suspension/expiration/surrender/cancellation of a license shall not deprive the
17 Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period
18 within which the license may be renewed, restored, reissued or reinstated.

19 21. Section 125.3 of the Code states, in pertinent part, that a Board may request the
20 administrative law judge to direct a licensee found to have committed a violation or violations of
21 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
22 enforcement of the case.

23 FIRST CAUSE FOR DISCIPLINE

24 (Unlicensed Activity)

25 22. Respondent Real Estate Termite is subject to disciplinary action under sections 8610,
26 subdivision (c), 8639, 8641, and 8550, subdivision (e), in conjunction with California Code of
27 Regulations, title 16, section 1918 in that between May 8, 2013 and May 15, 2013, Respondent
28 Real Estate Termite engaged in the practice of structural pest control without proper licensure in

1 place by continuing to work without a qualifying manager in place and while the company
2 registration was suspended due to their failure to designate a qualifying manager.

3 SECOND CAUSE FOR DISCIPLINE

4 (Failure to Notify Board of Disassociation with Ten Days)

5 23. Respondent Real Estate Termite is subject to disciplinary action under section 8641
6 for failure to comply with section 8571 in that Respondent Real Estate Termite failed to notify the
7 Board within ten days of the cessation of its qualifying manager (QM). The QM (Respondent
8 Espinoza) filed a notice of disassociation on April 23, 2013 and Respondent Real Estate Termite
9 never notified the Board as required.

10 THIRD CAUSE FOR DISCIPLINE

11 (Failure to Comply with Reporting Requirements)

12 24. Respondents Real Estate Termite, Romeo Terrones, and Espinoza are subject to
13 disciplinary action under section 8641 for failure to comply with sections 8516 and 8518 in
14 conjunction with California Code of Regulations, title 16, section 1996.3 in that between January
15 1, 2013 and March 28, 2013, they failed to report 210 Wood Destroying Organisms (WDO)
16 activities to the Board within ten days after commencement of the inspection or completion of
17 work.

18 FOURTH CAUSE FOR DISCIPLINE

19 (Fraudulent Acts)

20 25. Respondents Real Estate Termite, Romeo Terrones, and Espinoza are subject to
21 disciplinary action under section 8642, in that they made fraudulent representations to the Board as
22 follows:

23 a. Represented that they completed 10 WDO activities on January 10, 2013.
24 Given the time needed for inspection and travel necessary to complete the jobs, the activities
25 purportedly undertaken could not have been performed in less than 17.5 hours.

26 b. Represented that they completed 14 WDO activities on February 8, 2013.
27 Given the time needed for inspection and travel necessary to complete the jobs, the activities
28 purportedly undertaken could not have been performed in less than 24 hours.

1 FIFTH CAUSE FOR DISCIPLINE

2 (Fraudulent Acts)

3 26. Respondents Real Estate Termite, Romeo Terrones and Angelo Terrones are subject
4 to disciplinary action under section 8642, in that they made fraudulent representations to the Board
5 as follows:

6 a. Represented that they completed 9 WDO activities on May 15, 2013. Given the time
7 needed for inspection and travel necessary to complete the jobs, the activities purportedly
8 undertaken could not have been performed in less than 16 hours.

9 b. Represented that that they completed 10 WDO activities on August 20, 2012, which is
10 also the same day that Respondent Terrones was undertaking a license re-examination. Given the
11 time needed for inspection and travel necessary to complete the jobs and without consideration
12 given for the time needed for re-examination, the activities purportedly undertaken could not have
13 been performed in less than 17 hours.

14 c. Represented that that they completed 10 WDO activities on September 17, 2012,
15 which is also the same day that Respondent Terrones was undertaking a license re-examination.
16 Given the time needed for inspection and travel necessary to complete the jobs and without
17 consideration given for the time needed for re-examination, the activities purportedly undertaken
18 could not have been performed in less than 17 hours.

19 PRAYER

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
21 and that following the hearing, the Structural Pest Control Board issue a decision:

22 1. Revoking or suspending Company Registration Certificate Number PR 6359, issued to
23 Real Estate Termite; Ulysses Terrones and Savier Terrones, Partners;

24 2. Prohibiting Ulysses Terrones and Savier Terrones from serving as an officer, director,
25 associate, partner, qualifying manager or responsible managing employee of any registered
26 company during the period that discipline is imposed on Company Registration Certificate Number
27 PR 6359, issued to Real Estate Termite; Ulysses Terrones and Savier Terrones, Partners;

1 3. Revoking or suspending Operator License Number OPR 12060 and Field
2 Representative License Number FR 39379, issued to Angelo Terrones;

3 4. Prohibiting Angelo Terrones from serving as an officer, director, associate, partner,
4 qualifying manager or responsible managing employee of any registered company during the
5 period that discipline is imposed on Operator License No. OPR 12060 and Field Representative
6 License No. FR 39379, issued to Angelo Terrones;

7 5. Revoking or suspending Field Representative License Number FR 45244, issued to
8 Romeo V. Terrones;

9 6. Prohibiting Romeo V. Terrones from serving as an officer, director, associate, partner,
10 qualifying manager or responsible managing employee of any registered company during the
11 period that discipline is imposed on Field Representative License No. FR 45244, issued to Romeo
12 V. Terrones;

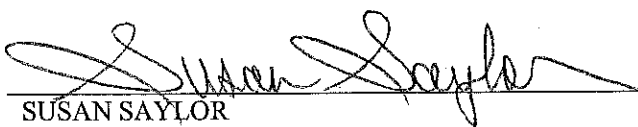
13 7. Revoking or suspending Operator's License Number OPR 12439, issued to Fidel
14 Espinoza;

15 8. Prohibiting Fidel Espinoza from serving as an officer, director, associate, partner,
16 qualifying manager or responsible managing employee of any registered company during the
17 period that discipline is imposed on Operator License No. OPR 12439, issued to Fidel Espinoza;

18 9. Ordering Ulysses Terrones and Xavier Terrones, Angelo Terrones, Romeo V.
19 Terrones and Fidel Espinoza to pay the Structural Pest Control Board the reasonable costs of the
20 investigation and enforcement of this case, pursuant to Business and Professions Code section
21 125.3;

22 10. Taking such other and further action as deemed necessary and proper.

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24 DATED: 5/8/14


SUSAN SAYLOR
Registrar/Executive Officer
Structural Pest Control Board
Department of Consumer Affairs
State of California
Complainant

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